

ORIGINAL

EX PARTE OR LATE FILED

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FAX (202) 424-7643
WWW.SWIDLAW.COM

NEW YORK OFFICE
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NY 10174
(212) 973-0111 FAX (212) 891-9598

RECEIVED

December 21, 2000

DEC 21 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie R. Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte*
CC Docket No. 96-98 /

Dear Ms. Salas:

Cbeyond Communications submits the following information for consideration in the above-captioned proceeding.

Cbeyond Communications is a facilities-based service provider headquartered in Atlanta, Georgia. As a broadband application service provider (BASP), Cbeyond has received regulatory authority to provide local and long distance service to its small business customers in Georgia, Florida, Texas, Colorado, Illinois, Pennsylvania, California, Virginia, Massachusetts and New York. Cbeyond has executed Section 251 interconnection agreements for all of BellSouth territory, and with Southwestern Bell and Verizon for Texas, and with Qwest for Colorado. Cbeyond is currently in negotiations with Verizon for Pennsylvania and Southwestern Bell for Illinois. Cbeyond provides its local service pursuant to tariffs and its long distance services pursuant to tariffs where required.

During the next several years, Cbeyond intends to enter 25 markets. During the fourth quarter of this year, Cbeyond conducted successful technical trials in the Atlanta market. Cbeyond is currently conducting the initial phase of a market trial in Atlanta with 15 to 20 retail customers. The purpose of the market trial is to permit Cbeyond to test its end-to-end processes and to get customer feedback on those processes. The market trial will also provide Cbeyond with market data from trial customers concerning products and services provided by Cbeyond. The market trial will run through the first quarter of 2001, with full market entry in Atlanta during the first quarter 2001.

Cbeyond's target market is small to medium size business customers. Cbeyond defines a small business as a business with 5-25 lines. These customers will be served via Cbeyond's network and via facilities leased from the incumbent local exchange carriers. Specifically, Cbeyond will access its customers through DS1 unbundled local loops and EELs. Cbeyond will use caged and cageless collocation with ILECs in its target markets and has physical collocation arrangements in place with BellSouth in the Atlanta market. Cbeyond will serve its market trial

No. of Copies rec'd 071
List A B C D E

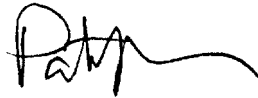
customers via new combinations of network elements (EELs) and has issued orders to BellSouth for two customers in the last week. The remaining orders for the balance of the trial customers will be issued by the end of the month for delivery in January. EELs are being utilized exclusively during the trial period and over time will be used as a compliment where we cannot serve our customers via unbundled loops directly into the collocation space. Cbeyond intends to rely on the availability of new EELs where BellSouth or other ILECs choose under current rules not to make unbundled switching available in density zone 1 of the top 50 MSAs. Cbeyond will utilize its own switching and has no plans to use any switching capabilities of the ILEC to serve its customers. Cbeyond's initial experience in the Atlanta market has indicated that it is able to serve customers with as low as five lines due to the efficiency of Cbeyond's network.

Below is a summary of the Cbeyond business plan in terms of network economics:

- Cbeyond utilizes a pure IP network architecture and soft-switch technology to bring all the communications services that a small business needs at affordable prices typically only available to large enterprises.
- A significant reduction in capital expenditure ("CAPEX") per market provides Cbeyond a distinct advantage, both in terms of competitive positioning and customer economics, versus a traditional CLEC.
- By increasing the percent of success-based capital spending versus that of a traditional CLEC, Cbeyond effectively reduces its financing risk.
- Cbeyond has leveraged the capabilities of its next-generation network and the significant reduction in CAPEX to provide service to businesses with as few as 5 lines.
- Cbeyond's service packages are competitively priced to approximate the current "voice spending" of a small business, while including local and long distance voice as well as a broadband Internet connection.
- The result is that every small business customer will receive the benefit of a broadband Internet connection.
- As the cost of customer premises equipment and the local loop continue to decrease, Cbeyond expects to be able to serve even smaller businesses.

Cbeyond raised \$141M in capital in April of 2000. This capital is being used to build our network and to serve our customers on a facilities basis. Cbeyond urges the Commission to continue to support its pro-competitive policies that promote facilities-based competition. The Commission should do nothing that would circumvent progress toward irreversible facilities-based competition.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. J. Donovan', with a long horizontal flourish extending to the right.

Patrick J. Donovan
Counsel for Cbeyond Communications

Julia Strow
Vice President – Regulatory
Cbeyond Communications
320 Interstate North Parkway, SE
Suite 300
Atlanta, Georgia 30339
678-424-2429
678-424-2500 (fax)

cc: Michelle Carey
Jon Reel
Jodie Donovan-May
Ellen Burton
Ben Childers